SINGLE BENCH

(3)

P.R. No. 5344/05 1
Presented by Shri Satyendra Sahu
dated 17/10/05

C.S. 102/—

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.NO: 5186 /2005

Banshilal Kenwat
S/o Late Sunder Sai Kenwat
Aged 47 years,
Presently working as :
Incharge Superintending Engineer
Rural Engineering Services,
In the Office of :
Development Commissioners,
(Raipur-CG)

... **Petitioner**

Versus

1. State of C.G
Through: Principal Secretary,
Panchayat & Rural Development Deptt.,
D.K.S. Bhavan,
Raipur (CG)

2. Shri Vinod Jain
S/o: Shri Nemi Chand Jain
Presently posted as In- Charge Superintending Engineer (PMGSY),
Raipur Circle,
Division: Raipur (CG)

... **Respondents**

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUION OF INDIA FOR ISSUE OF WRIT OF MANDAMUS/CERTIORARI OR DIRECTION OF LIKE NATURE.

TARY CHHATTISGARH CHAWLA (ADVOCATE) PUR DISTT R (C.G.) INDIA Regd. No C.G 21/30 10-03

COPY 17/10/05 SPUR

XI-HC-78

(88)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...W.P.5186..... **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

25.10.2005

W.P.No.5186/2005

Shri N.K.Vyas, counsel for the petitioner.

Shri P.S.Kosy, Dy. Advocate General for the State on advance copy.

Shri Manoj Paranjape, counsel for respondent No.2 who appears on Caveat petition, bearing No. 447/2005.

Heard finally with the consent of the parties.

The petitioner, who is presently working on the post of Executive Engineer, has challenged the validity of impugned order dated 20.9.2005 (Annexure P-1) passed by the State authority by which, respondent No.2 has been given seniority with effect from 10.9.1981 i.e. from the date of his joining on the post of Assistant Engineer and it has further been directed that the seniority of respondent No.2 be fixed in the gradation list accordingly.

The submission of learned counsel for the petitioner is that by passing this order, the State has calculated the adhoc period of the service of the petitioner as regular service and in fact, the seniority which was to be fixed on the basis of the date of regularization has been violated. He further submits that by giving this seniority to

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

respondent No.2, the seniority of the petitioner would be affected and it will also affect the future prospect of the petitioner in the matter of promotion etc. He submits that after issuance of the impugned order dated 20.9.2005, the petitioner had filed a representation dated 24.9.2005 (Annexure P-11) but, the representation has not been decided so far and if the representation is kept in abeyance and the Departmental Promotion Committee considers the names for promotion, the rights of the petitioner shall be jeopardized.

For the time being, learned counsel for the petitioner submits that this petition may be disposed of with liberty to the petitioner to file a fresh representation before the competent authority and the competent authority may be directed to dispose of his representation within the stipulated period granted by this Court. He also prays that till the representation is decided, the impugned order dated 20.9.2005(Annexure P-1) be kept in abeyance.

The limited prayer made by learned counsel for the petitioner for consideration of representation is not opposed by the State counsel nor by the counsel for respondent No.2. However, counsel for respondent No.2 opposes the prayer for keeping in abeyance the impugned order, Annexure P-1.

(90)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश – 3–	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Having heard learned counsel for the parties and considering the facts and circumstances of the case, it is directed that if so advised, the petitioner may file a fresh representation or a copy of representation dated 24.9.2005 (Annexure P-11) alongwith a copy of this order and a copy of this writ petition before the concerned authority within a period of one month from today and if such a representation is filed, the concerned authority shall dispose of the same as early as possible preferably within a period of **six weeks** from the date of filing/receipt of the aforesaid representation. Since a short time is being given for consideration of representation, it is also directed that the impugned order, Annexure P-1 shall be kept in abeyance for a period of **three months** from today, expecting that the representation filed in between this period shall be disposed of by the concerned authority in this period. The order pertaining to keeping in abeyance the impugned order, Annexure P-1 shall stand automatically vacated after completion of the period of three months. If the representation is not filed within one month, this order of keeping the impugned order in abeyance, will automatically stand vacated after one month from today. It is made clear that after making the representation, the concerned authority shall call upon respondent No.2 and he will also be heard before disposing of the representation.	

(91)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश –4–	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	With the aforesaid observations, this petition stands finally disposed of. Consequently, M.W.P.No. 4204/2005 stands disposed of. Certified copy as per rules. **Sd/-** **Sunil Kumar Sinha** **Judge**	

sunita